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June 28, 2020

The Honorable Mark Lane
U.S. Magistrate Judge
501 West 5th Street, Suite 7400
Austin, Texas 78701

Re: Cause No. 1:20-MC-00657-LY; *Van Dyke v. Retzlaff*; in the U.S.
District Court for the Western District of Texas.

**EMERGENCY NOTICE OF DEPRIVATION OF DUE PROCESS BY FAILURE
TO SERVE**

Requested Relief: (i) Order that Movants Properly Serve Documents
(ii) Extend Due Date for Response to Motions to
Quash

Dear Judge Lane:

The heart of constitutional Due Process is notice and an opportunity to adequately respond to requests for relief by opposing parties. Thus far in the instant cause, I have received neither.

Neither movant James McGibney nor the United States of America has afforded me those basic rights in plaintiff Jason Van Dyke's baseless **\$100,000,000.00** defamation suit against me. They know I am not—and cannot be¹—served with copies of pleadings, motions, or other papers through the CM/ECF system. Yet they continue to *misleadingly imply* to the Court in their certifications that I have been served.

¹ When I asked to be added to the service list, Courtroom Deputy Katherine Wallace advised, "Currently, only admitted attorneys who have made an appearance on a case through a pleading can be added for ECF notifications."

Here is one example:

CERTIFICATE OF SERVICE

I certify that on this 23rd day of June, 2020, a true copy of this motion with attachments was served on all counsel of record by way of the Court's CM/ECF system.

By: /s/ Kristina S. Baehr
Kristina S. Baehr
Assistant United States Attorney

The rule limiting ECF notifications to attorneys who have made an appearance does not exempt the movants in this case from serving me. I am entitled to seven days to respond to movants' motions to quash. L.R. CV-7(e)(2). I respectfully ask the Court to order all parties to properly serve me and to make clear in the Court's docket notes that the time for my response will start to run only after they have done so and I have been actually served.

Plaintiff, suspended Texas attorney Jason Lee Van Dyke, is the mentally unbalanced leader of a violent white supremacist street gang called the *Proud Boys*. He sued me for allegedly calling him a "Nazi" and for filing a grievance against him with the State Bar of Texas after he started making threats of violence and murder against me and my family. Van Dyke is also suing me because he claimed I got him fired from a job as a felony prosecutor for the Victoria County District Attorney's Office for exposing his racism.



Jason L. Van Dyke
@MeanTXLawyer

 Follow

@don_koolaid @dividedly_ I don't hate black people. I hate niggers. There is a difference, and @dividedly_ is a nigger with a capital N

3:20 PM - 29 Dec 2014

This lawsuit between Van Dyke and myself essentially involves whether or not state anti-SLAPP laws apply in federal court and it is presently before the U.S. Supreme Court for a decision on the denial of my anti-SLAPP motion while, in the meantime, the underlying defamation case goes forward. It is a case in which 40 of America's largest news media organizations have filed Amicus briefs in my support. It is also a case that has caught the interest of President Trump and the attorneys who are representing him in his own Texas anti-SLAPP case which is presently pending before the U.S. 9th Circuit Court of Appeals in the Stormy Daniels case. Because my case is the first one before the Supreme Court, what happens to me also happens to the President and myself and my attorneys have been in frequent communication back and forth with Pres. Trump's legal team.

In discovery responses filed just last month in May, Van Dyke identified James McGibney as his "key witness" regarding Van Dyke's **\$100 million** defamation claims about who has been posted certain things about him on the internet and in social media. Furthermore, Van Dyke stated that McGibney provided him with expert technical knowledge, research, investigation, and opinions as to the identity of the author of the "BV Files" internet blog. McGibney claims that it was through his "research" and skills as an "internet sleuth" (whatever that is) that he was able to come to the EXPERT opinion as to who the identities are of the authors of this anonymous blog that is hosted overseas.

McGibney is also a white supremacist and is a close associate of Van Dyke.

According to the written discovery responses from Van Dyke, and from what he said in his May 28 deposition, James McGibney is the only source for this technical information.

The problem, your Honor, is that McGibney is totally unqualified to be rendering any kind of opinions whatsoever. He claims to have a Bachelor of Arts degree with a double major in Management Information Systems and Business Administration from a place called Chadwick University. But it turns out that Chadwick "University" is nothing but a diploma mill that was shut down by the government in 2007. A totally phony diploma from a fake school!!

McGibney further claims to have a Bachelor of Science degree in Microcomputer Technology from Colorado Technical University. But it turns out that his B.S. degree is total BS, Judge Lane, as McGibney merely has a degree in criminal justice.

Finally, McGibney has previously claimed under oath (in a separate lawsuit involving him and myself), to having received certain computer training as a United States Marine (such as the supposed skill at being able to determine the name & address of a person based solely on their IP address, or uncovering the real identity behind anonymous Twitter accounts and such – despite there being no Twitter or internet back in Sept 1992 when he enlisted for 4 years as a private assigned to MOS 0151 – Admin Clerk).

McGibney and I have a history. Back in December of 2012, McGibney posted sexually explicit photographs of my young daughter, Brittany, on his *Cheaterville.com* website, along with defamatory statements claiming my daughter and I were in a long-standing incestuous relationship in which she later got pregnant and was forced to move overseas. McGibney also said that she and I had made sex videos and that I posted them on the internet!

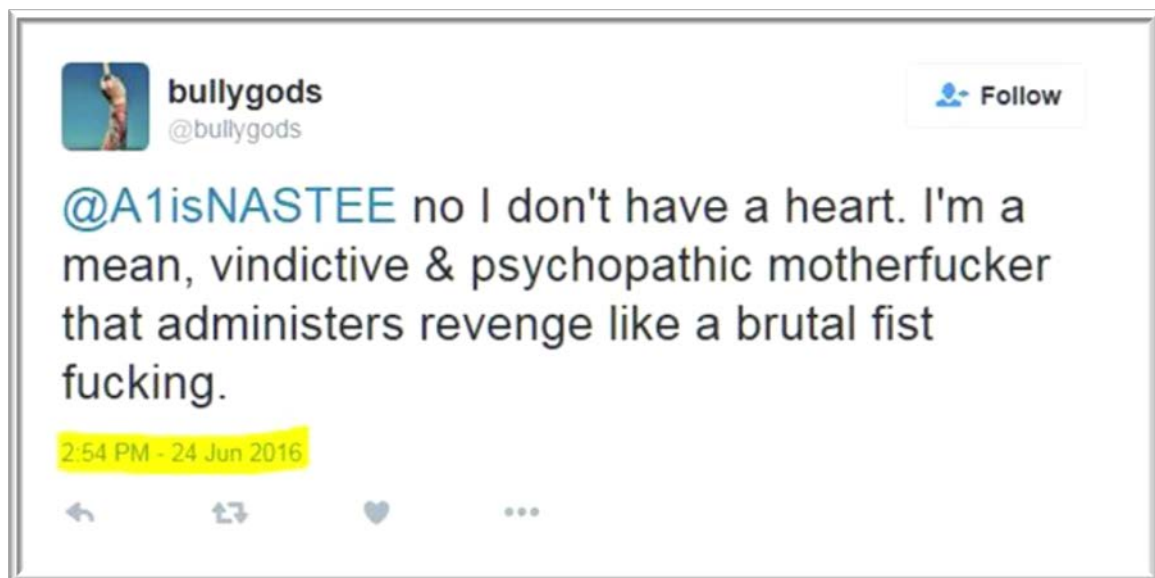
This was not a post directed specifically at me as McGibney had never heard of me back then. This post about my daughter and her family members was typical of the things that McGibney would post about ALL of the little girls and young women posted on his website as a part of his “crowd sourced” blackmail scheme, Judge Lane.

The more horrific and damaging the defamation by McGibney, the more likely it was that the girls and their families would give in to the extortion and pay up!!!

The reality, Judge Lane, is that my daughter was but one of over ten thousand young girls (and some men!) posted by McGibney on his revenge porn websites who were victimized by his sexual blackmail scheme, whereby McGibney would charge these girls \$499 to ransom back their intimate photos and remove the defamatory comments.

He has been sued at least 4 times in federal court for blackmail, extortion, and defamation.

1. *Powers v. Cheaterville.com & McGibney*; Case # 2:13-cv-01701-JAM- CKD, filed in the U.S. District Court for the Eastern District of California dated August 16, 2013.
2. *Quainoo v. McGibney & Cheaterville.com*; Case # 1:14-cv-00674-JKB, filed in the U.S. District Court for the District of Maryland dated March 7, 2014.
3. *Holmes v. ViaView, Inc. & McGibney*; Case # 1:13-cv-04270-HLM, filed in the U.S. District Court for the Northern District of Georgia dated May 28, 2014.
4. *Baldwin v. McGibney & ViaView, Inc.*; Case # 1:14-cv-23941-PCH, filed in the U.S. District Court for the Southern District of Florida dated December 7, 2015.



--- Tweet from James McGibney to a woman who had asked him to please have a heart and remove her daughter from his website.

Furthermore, once McGibney found out that I was making complaints to governmental regulatory authorities, advertisers, and to his internet hosting company, he then turned around and filed a series of SLAPP lawsuits against me!

1. Case No. 067-270669-14; *James McGibney and ViaView, Inc. v. Thomas Retzlaff, et al*; In the 67th Judicial District Court of Tarrant County, Texas; filed February 19, 2014. **Resolved in Retzlaff's favor.** See *McGibney v Rauhauser*, 2014 Tex. App. LEXIS 13290 (Tex. App.—Fort Worth 2014, no pet.).
2. Case No. 2014-1-CH-005460; *ViaView, Inc. v. Thomas Retzlaff*; In the Superior Court of Santa Clara (Calif) County; filed March 17, 2014. **Resolved in Retzlaff's favor.** See *ViaView v. Retzlaff* (2016) 1 Cal.App.5th 198.
3. Case No. 5:14-cv-01059; *James McGibney & ViaView, Inc. v. Thomas Retzlaff, et al*; In the U.S. District Court for the Northern District of California – San Jose Division; filed March 6, 2014. **Resolved in Retzlaff's favor.** See *McGibney v. Retzlaff*, 2015 U.S. Dist. LEXIS 79434 (N.D. Cal., June 18, 2015).

In the Fort Worth case, on December 30, 2015, McGibney was ordered to pay over **\$1.3 million** in sanctions and attorney's fees for violating the Texas anti-SLAPP statute. At the time, it was a record for Texas. However, that judgment was reversed on appeal and a new sanctions hearing has been ordered, which we are right in the middle of as we speak today.

McGibney (who had two Hollywood PR firms on retainer – Lexicon Public Relations & ZTPR) has for years openly bragged in media interviews across the planet to being a member of the illegal hacking groups *Anonymous* and *The Rustle League* and, in an article recently published in *Al Jazeera America*, he claimed to have an **Online Army of Trolls** at his beck and call.²

Since movant James McGibney first sued me for defamation over 6 years ago, he and his “online army of trolls” have filed a series of false reports with the FBI and other law enforcement agencies claiming that I am a member of ISIS and the Aryan Brotherhood, that I possess illegal machine guns, that I

² In fact, no less than THREE “troll army” associates of James McGibney are presently doing hard time in federal prison for computer hacking and cyberstalking type crimes. **Matthew Keys** (Case # 2:13-cr-00082 in the E.D. of Calif), **Deric Lostutter** (Case # 5:2016-cr-00062 in the E.D. of Ky), and **Justin Liverman** (Case # 1:16-cr-00313 in the E.D. of Va). And one associate, **Christopher Doyon** (aka “Commander X”) is still on the run from the FBI today (Case # 5:11-cr-00683 in the N.D. of Calif).

make pipe bombs, and that I am “stalking” and “harassing” McGibney. McGibney and his “troll army” further claim that I am in a conspiracy with at least ten other individuals to ruin his revenge porn company, ViaView, Inc., murder his family, and “cyberstalk” his lawyer: Neal Rauhauser, Lane Lipton, Lora Lusher, Jennifer D’Alessandro, and five “Jane Does.” (These were all my co-defendants in McGibney’s failed federal and state SLAPP suits.)

Later on, McGibney and his attorney John Morgan would claim that the conspiracy with me was even larger and that California attorney Sue Basko was also involved, along with a Los Angeles County Deputy District Attorney named Patrick Frey, a former AUSA named Ken White, Beaumont, Texas, attorneys Mark Sparks, Brent Coon, and Joe Fisher, Jefferson County (Texas) District Attorney Bob Wortham, Texas State District Court Judge Layne Walker, US Magistrate Judges Zack Hawthorn & Keith Giblin (ED of TX), Chief Justice Steve McKeithen of the Beaumont Court of Appeals, Noellee Reed of the Tex. Commission for Lawyer Discipline, some local sheriff in Texas whose name I forgot, and several other random people, to include Houston attorney Jeffrey Dorrell and all of the senior partners of the Hanszen Laporte law firm.

Prior to my being sued, I had never heard of these people before in my life. But based on lies told to the FBI by McGibney and his “troll army”, myself and my family members have been “swatted” four times: (1) October 20, 2015; (2) June 14, 2017; (3) September 26, 2017; and, (4) June 12, 2018.

Not so coincidentally, Judge Lane, each of those days matches up with important court events or hearings in each of the three SLAPP suits McGibney had filed against me!!!

But now, when McGibney has gotten served with a federal subpoena demanding his appearance at a deposition to give evidence about his e-Detective / cyber-sleuthing skills regarding his claimed identification of me as being behind anonymous internet comments that are at the heart of this **\$100 million** federal lawsuit that indirectly affects the President of the United States, we have McGibney and some random FBI guy in Phoenix named Walker Wicevich trying to claim that the subpoena needs to be quashed because “James McGibney is a cooperating FBI witness in the ongoing criminal investigation against Mr. Retzlaff and others.” My response, your honor, is: *So what?*

I would point out that the claim that I am the subject of an “ongoing criminal investigation” “with others” has long since been discredited. Specifically, I recently had an on-the-record communication with a very senior Special Agent assigned to the FBI’s National Security Squad who specifically told me that:

This isn’t a case. This is not a case. I can tell you right now, I have nothing open. I’m the guy that gets to determine whether or not it does get opened as a case, and this is not getting opened as a case. This is nothing. This is a complaint that came in that has no merit. I’m shutting it down. There’s nothing here. So don’t worry about it. We are not actively investigating you nor are we going to. There’s nothing here to substantiate that. I mean if anything, it would be against him [McGibney], not against you. But we don’t have anything here we’re opening up, so don’t be concerned about it. This is done.

This same individual (whose identity will be revealed to you at the hearing *in camera* so as to avoid this person being retaliated against) also had a similar conversation with my lawyer, Jeffrey Dorrell of the Hanszen Laporte law firm in Houston. Again, this was all on-the-record and you shall be provided with the communications.

What Walker Wicevich and James McGibney are trying to do is conceal from the court, and the American public, evidence that Wicevich has been feeding McGibney insider information from the FBI about his enemies, which McGibney then uses to his advantage in his internet defamation campaigns and in his lawsuits against me.

While it is true that a search warrant was executed on June 12, 2018, at a residence in El Mirage, AZ, it was at my son’s house. I happened to be present and, while it is true that Wicevich did not share any of the specific details of the investigation with me, he (and others there) did confirm that it was James McGibney “and others” who were behind the search warrant.³ Wicevich then attempted to start questioning me. But when I pointed out to

³ I am not prepared at this time to state whether or not there are video/audio recordings of the entire events of June 12, 2018, from start to finish, from each of the rooms inside that residence.

Wicevich that I was represented by counsel – and he knew that – he stated that “Dorrell is only a civil attorney” implying that did not count and that I really ought to talk to him anyways. When I asked for Wicevich’s name (because at the time I did not know who he was and neither he nor any of the other agents with him had shown me any identification), he provided me with a fake name. When I asked him the name of the AUSA who has handling this matter, he again provided me with a fake name. When I asked for his business card, he claimed he was out and, furthermore, so were all the other agents.

The only reason why they were at the house was because of things told to them by McGibney and his “troll army”.

The information was later confirmed through other sources, who were able to identify the individuals involved.

Both AUSAs Kristina Baehr and Aimee Cooper have been made personally aware that there is an investigation being conducted by the Dept of Justice’s Office of Inspector General into allegations that Wicevich provided McGibney with insider access to confidential information and documents (such as 302’s, search warrant applications, returns on search warrants, advance warning about a search warrant to be performed, and, on the day of the search, Wicevich keeping McGibney apprised as to the developments in near ‘real time’), which McGibney used to his advantage in court against me.

Both AUSAs Kristina Baehr and Aimee Cooper are in possession of exculpatory evidence (*Brady* material, for lack of a better word) that establishes that McGibney has repeatedly fabricated evidence regarding me and his claims of online harassment / cyberstalking, and evidence that establishes that McGibney has falsely testified under oath about his “cyber sleuthing” and USMC training and qualifications (which McGibney used to persuade a judge to grant him a restraining order against me).

Both AUSAs Kristina Baehr and Aimee Cooper and Wicevich have personal knowledge that McGibney committed perjury in an October 10, 2014, affidavit he submitted to the federal court in his lawsuit against me, *McGibney v Retzlaff, et al.*, Case No. 5:14-cv-01059 (ECF# 69-7) in which McGibney makes false claims regarding the identities of anonymous Twitter users and social media accounts based upon his pretend USMC “cyber-sleuthing” skills. Included within that affidavit he specifically stated in paragraph 57 that “IP address 68.104.151.10 (ISP COX Communications)

was used to post Brittany Retzlaff on *Cheaterville.com* on December 24, 2012 under the username ‘FranklinStud’.” McGibney even included a screen shot of what he claims is “evidence” of this posting from McGibney’s own computer database system. However, in a January 18, 2014, statement posted on McGibney’s own website, *Bullyville.com*, McGibney himself states that this *Cheaterville* post on Brittany was posted from a completely different IP address – IP address 96.44.189.98 (which belongs to the Dallas Fire Dept., Station #47). The *Bullyville.com* statement in question has the URL of <http://www.bullyville.com/?page=articles&id=908> But when I called him out on this bullshit e-Detective nonsense and complained to the federal judge in San Jose, McGibney deleted the statement on his website (which you can see now goes to an empty page) and he substituted the Dallas FD’s IP address of 96.44.189.98 with this other random IP address, which he then falsely claimed was mine!

But the point I am trying to make, Judge Lane, is that prior to June 2018, Wicevich personally knew about all of these lies and fabricated evidence! The audit trail is what it is.

Furthermore, they have in their possession irrefutable evidence that McGibney has made false claims before about other people supposedly trying to kill him – all in an effort to drum up publicity and money for his ViaView company and websites.

The bottom line is that Wicevich gave McGibney confidential information and access to FBI information which then gave McGibney an unfair advantage over me in these lawsuits. Not to mentioned ruined my public reputation via McGibney’s scorched earth defamation campaign. And this is the reason why Wicevich and McGibney are frantically trying to quash this deposition subpoena, Judge Lane!

The fact that Wicevich provided this confidential information and documents to McGibney is not in dispute. The emails between them are what they are and the audit trials are irrefutable.

Nor is there any dispute that that McGibney posted online what was supposed to be confidential FBI information / material regarding this supposed “investigation” on social media and his own *Bullyville.com* website and other ViaView owned sites.

McGibney is not a law enforcement officer, nor is he an employee of the FBI. So why is Wicevich claiming in his Declaration (EFC 5-1) that McGibney is in possession of “FBI communications, FBI information, FBI materials, and FBI investigative methods and techniques that are unknown to the public”, but that are so super-secret that they cannot be disclosed by anyone, anywhere, under any circumstances? Are there not rules within the Dept of Justice regarding this kind of stuff promulgated by the Attorney General? If Wicevich wants to claim that McGibney is a CI, then where is the registration paperwork? I would be deeply curious to see the Initial Suitability Report and Recommendation, and to know which Field Manager signed off on such nonsense as they need to have their head examined!

Remember, Judge Lane – McGibney is separately suing me for “millions of dollars” in a lawsuit in Fort Worth in which these claims about online defamation and his “cyber sleuthing” skills are at the heart of the case. McGibney himself choose to step into the courtroom, a public forum, to air his real and imagined grievances against me “and others” whom he claims are all conspiring against him!

Remember, also, that I am a defendant in a **\$100 million** lawsuit in which McGibney and his “cyber sleuthing” claims about me and the internet are at the heart of my defense in this case. It is a violation of my Sixth Amendment rights not to allow me to confront this witness and his “evidence.”⁴

Prior to June 18, 2018, Wicevich and the FBI had personal knowledge of the fact that McGibney has lied about his education and technical knowledge and skills under oath, and that he used those lies to persuade a local judge to grant him a Temporary Restraining Order against me in San Jose, CA (which was later reversed on appeal). Wicevich also had personal knowledge that McGibney had fabricated much, if not all, of the claimed “electronic” evidence against me, or that it was simply created as a result of actions taken by members of McGibney’s *Online Army of Trolls* (the people in those illegal hacking groups I told you about). Wicevich also knew that McGibney had repeatedly fabricated other “death threat” / “cyberstalking”

⁴ As an interesting aside, in that Ft Worth lawsuit that McGibney filed against me, McGibney was noticed to appear at a deposition on June 26. However, he filed a motion to quash **and, guess what, your Honor?** Wicevich submitted a declaration in that case, too, claiming that McGibney should not be required to testify based on the same “he’s an FBI witness” nonsense that he is claiming in this case. Again, McGibney is the plaintiff in that case and I am the defendant!!!

claims involving other individuals, and that McGibney used those false claims to get an advantage in his separate legal actions involving: (1) Hunter Moore, (2) Eric S. Chanson, (3) Kevin C. Bollaert, (4) Chance Trahan, (5) Craig Brittain, (6) Jon Gosselin, (7) Michael Crook, (8) Joseph Camp, and (9) James Duffy (to name but a small few).

Most importantly, your Honor, Wicevich had personal knowledge prior to June 2018 that the witness, James Alexander McGibney, had been ORDERED to pay over **\$1.3 million** in sanctions and attorney's fees as a result of that SLAPP lawsuit he filed against me in Fort Worth (the one McGibney was supposed to appear for a depo at on June 26). **The judge signed the order on December 30, 2015.** Since then, because the appellate court reversed that award and ordered a new sanctions hearing (which is literally taking place as we speak), McGibney and his "troll army" have had every reason in the world to try to discredit me, make false police reports about me, defame me, fabricate evidence about me, and to get others to assist them with this.

McGibney has hired people to conduct physical surveillance on me and my family in the Phoenix area and to try to dig up personal documents and information (to include, I suspect, my daughter's medical & psych records). McGibney then passed on this information, **and information he obtained from Wicevich**, all to Van Dyke which Van Dyke then used for his own nefarious purposes!⁵

The fact that Wicevich provided this confidential information and documents to McGibney is not in dispute. The emails between them are what they are and the audit trails are irrefutable – and he basically admits as much in his declaration! Nor is there any dispute that McGibney posted online what was supposed to be confidential FBI information / material on social media.

Plainly, your Honor, McGibney has certainly every reason in the world to want to sabotage my defense in this \$100 million lawsuit involving Van Dyke. Thus, I am entitled to explore this in his deposition.

⁵ For the past 18 months, Wicevich has had in his possession an audio recording made by an FBI informant in the home of plaintiff Jason Lee Van Dyke plotting with other gang members to assassinate myself, my attorney Jeffrey Dorrell, and a Dallas area dentist named Dr. Ryan Daniel! Yet Wicevich took no steps to warn me or any of the other targets, which also included a state bar prosecutor and a Denton (Tex) City Councilwoman. The DOJ-OIG is currently investigating this.

Your Honor, James McGibney is trying to portray himself as the victim in all of this. But he is the one who filed a bunch of SLAPP lawsuits against me and he lost – and has been ordered to pay massive sanctions as a result.

Furthermore, McGibney's internet defamation against me continues unabated to this very day! Between August 1, 2019, and September 13, 2019, on websites and social media accounts belonging to McGibney, he has been making false, defamatory claims that:

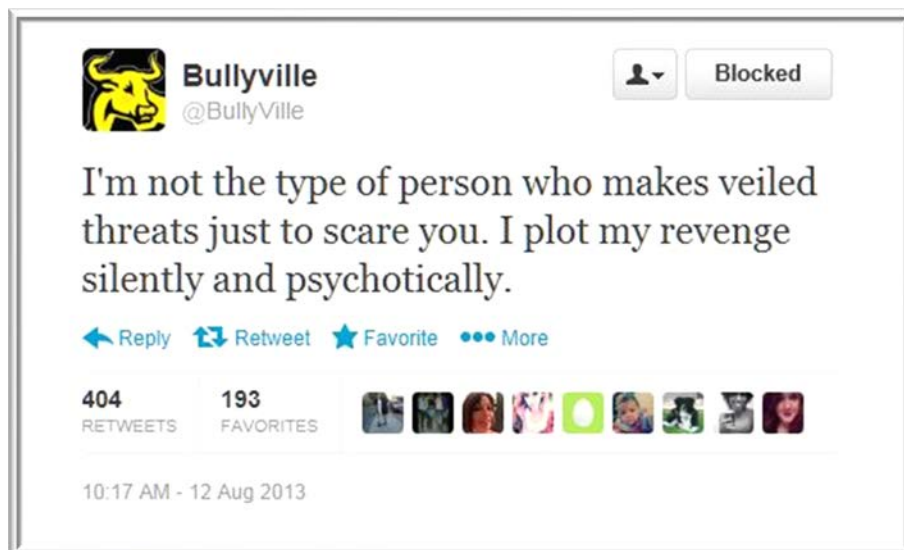
1. I am a registered sex offender.
2. I am a convicted sex offender.
3. That I have failed to register as a sex offender in both Arizona and Texas.
4. I am a convicted rapist.
5. I am a convicted pedophile.
6. I went to prison in Texas for sexually assaulting my wife.

He has also been falsely claiming that my attorney, Jeffrey Dorrell, is a homosexual pedophile and a drug addict, and McGibney has made threats to hack into the computers and email servers of the Hanszen Laporte law firm and put child porn in them!!

McGibney likes to buy up websites in the names of all of his enemies and their family members, which he then uses as a part of his online smear campaign. He bought up the domain **JeffreyDorrell.com** and used that to post these horrible defamatory claims about my lawyer and the law firm representing me!

And Wicevich has personal knowledge about all of that, Judge Lane!!! Which is why I demand that you ORDER McGibney to appear for the hearing on the motion to quash so that he can be questioned by me, and by you, in open court.

Long before there was a Tom Retzlaff, McGibney was making claims that people were threatening him and trying to kill him (James Duffy, Hunter Moore, and Neal Rauhauser come to mind). But like Tawana Brawley, Morton Downey, Jr., Crystal Mangum, Ahmad Saad Nasim, Kerri Dunn, Meg Lanker-Simons, Dauntarious Williams, Anna Ayers, Adwoa Lewis, Nikki Yovino, Marquie Little, Nathaniel D. Nelson, Floyd Elliott, Julia Ezell, Nikki Joly, Jason Lee Van Dyke, and Jussie Smollett, all of McGibney's claims were total lies designed solely to gain sympathy and publicity for his websites. Wicevich knows about all the previous death-threat hoaxes, Judge Lane, and he damn well knows that Tom Retzlaff is not cyberstalking or making threats to murder James McGibney or his family. If McGibney, his family, or friends are getting stalked and harassed, no doubt he is doing it himself (via one of the many members of his Online Army of Trolls scattered about the country, I am sure, so as to have plausibility deniability).



--- Tweet posted by McGibney when he first added me to his list of enemy targets.

McGibney's claims and threats, Judge Lane, are not only harming Mr. Dorrell's reputation and the reputation of the Hanszen Laporte law firm, but they are specifically intended to harm my legal representation and right to a fair trial.

For more than eight years James McGibney has been a high-profile public figure (via his two Hollywood PR firms) embroiled in public

controversies involving online bullying, revenge porn, and white supremacism.

Judge Lane, I am absolutely certain you are familiar from law school with the defamation lawsuit filed by Rev. Jerry Falwell against Hustler Magazine in which he tried to sue over published claims he was a drunkard who was having sex with his mother in an outhouse. But did you know that in its first major free-speech decision of the 21st century, the U.S. Supreme Court extended the protection of free speech even further in *Snyder v. Phelps*, 131 S.Ct. 1207 (2011) – a case involving the Westboro Baptist Church who was picketing funerals for military families and hollering stuff like, “God hates Fags” and “Fag troops.”

The Snyder court vacated the damages award to the dead soldier’s father for intentional infliction of emotional distress, holding that Phelps’ speech was protected by the First Amendment – even though the Snyder’s were not public figures and had never sought publicity! The Snyder court found Phelps’ speech to be on “matters of public concern” – speech that “occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” *Id.* at 1215.

People are allowed to organize and conduct social and economic boycotts, public information awareness campaigns, contact employers and demand that people get fired for despicable acts involving white supremacism and revenge porn / blackmail, and demand that communities take action. I have no doubt that many people feel “stalked” or “harassed” by the BLM movement or the so-called “cancel culture” or the marching in the streets and statutes being pulled down.

Judge Lane, it is impossible to conclude that a court constrained by Snyder’s precepts could find that my alleged speech is anything other than constitutionally protected comment on McGibney’s controversial websites and business practices or on Van Dyke’s white supremacist activities. (It goes without saying the under *Elonis v. United States*, there is no case against me, either.)

In any event, I would request that you order your staff to please add me to the CM/ECF system so that I can receive notices about filings in this case and respond accordingly, and that you please re-set the time within which to

file a response to these motions to quash as I will be having a great deal to say about this stuff and you need to hear it so you can make the proper decision.

The claims by McGibney and Wicevich are merely old wine in new bottles. The taste has not improved. After proper service, an opportunity to respond with proper briefing, I would ask that you deny the motions to quash and order McGibney to sit down for his long-awaited deposition.

McGibney's first mistake was thinking that I would roll over while he sought a PR victory in his SLAPP lawsuits against me.

His second mistake was bringing my family into this. Ever since my daughter was posted on his *Cheaterville* website 8 years ago, McGibney has been sexually obsessed with my daughter. He sends her repeated unwanted communications and demands that she provide him with personal information he can use against me or he will not help her with the removal of her sex tapes and naked pictures from his websites and the internet.

This really has me super upset, Judge Lane. I am a former state and federal law enforcement officer. You have no idea just how unbelievably angry that makes me. Not to mention sad and terribly disappointed. I grew up admiring the FBI and thinking that they were good people. But the cold hard reality is that practically everything President Trump says about them and the Dept of Justice really is true. It makes me sad for our country.⁶

The bottom line is that cyberstalking “victims” do not own websites in other peoples’ names that they then fill with horrible defamatory content. “Victims” do not pay strangers to conduct physical surveillance on their enemies. “Victims” do not call other peoples’ family members up at their work places and homes and then browbeat and threaten them into disclosing personal information “or else”. “Victims” do not try to provoke fist fights on the courthouse steps. “Victims” do not file SLAPP lawsuits and get ordered to pay sanctions & attorneys fees. “Victims” do not claim to hack into the computers of the defense attorneys and then threaten to put child porn on them.

⁶ Now that the cat is out of the bag and all of this is going public, I have no doubt that Wicevich and the DOJ will attempt to do damage control and drum something up in retaliation. If they can do it against General Flynn or U.S. Senator Ted Stevens, they can surely try to do it to me – but it won’t be easy!

If you are going to be the victim, then be a victim. But you do not get to be a victim if you are, in fact, the perpetrator. James McGibney is clearly not just a perpetrator, but he is a predator, as well.

I thank you for your time and most kind assistance in this matter, Judge Lane, and I look forward to appearing in your courtroom so we can all hear what McGibney has to say for himself.

Respectfully,

A handwritten signature in black ink that appears to read "Tom". The signature is stylized with a cursive 'T' and a simple 'om'.

Thomas Retzlaff

CERTIFICATE OF SERVICE

I certify that on June 28, 2020, a copy of this document was delivered to the US District Court Clerk's office by the electronic dropbox, which will automatically serve a Notice of Electronic Filing on all parties of record.



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